



HOUSE OF LORDS

HOUSE OF LORDS EUROPEAN UNION COMMITTEE FINANCIAL AFFAIRS

INQUIRY INTO FINANCIAL REGULATION AND SUPERVISION FOLLOWING BREXIT

CALL FOR EVIDENCE

The House of Lords EU Financial Affairs Sub-Committee, chaired by Baroness Falkner of Margravine, has launched an inquiry into the future of financial regulation and supervision following Brexit. The Committee invites interested individuals and organisations to submit evidence to this inquiry.

Written evidence is sought by 29 September 2017. Public hearings are expected to begin in September. The Committee aims to report to the House, with recommendations, in late 2017 or early 2018. The report will receive a response from the Government, and may be debated in the House.

BACKGROUND

The UK is currently subject to over 40 pieces of EU primary legislation on financial services, together with innumerable pieces of technical ('level 2') legislation shaped by the European Supervisory Agencies (ESAs). After Brexit, the UK will in principle be free to make its own choices on how to regulate, and supervise, the domestic financial services industry. Nonetheless, the extent of the current relationship between the two jurisdictions is considerable, with the UK's financial services industry providing a significant proportion of the financing and market infrastructure available to the EU. The depth of the interdependence between the UK and EU entails that there is likely to be some form of ongoing cooperation, in the interests of maintaining access, adequately aligned regulation, and financial stability. This may in turn restrict the UK's room for regulatory manoeuvre or innovation – either during a temporary period of transition, or more permanently.

If the UK wishes to seek regulatory equivalence (or a similar, potentially enhanced, arrangement) with the EU, it will be necessary in certain areas to stay in lockstep and to continue to cooperate with the European Supervisory Agencies. Furthermore, the UK's current regulatory framework is shaped not only by the EU, but also the international level (in the form of standards set by the Financial Stability Board and the Basel Committee on Banking Standards). The extent to which the UK might wish to engage the newfound potential for autonomy is not yet clear, or indeed whether it would wish to do so in order to lessen or enhance the scope of existing regulation.

The EU regulatory regime is also not a static target. Continued efforts to adapt the scope of regulation are likely to affect the UK as a third country. Current proposals may result, for example, in increases to the powers of the ECB and ESMA in respect of euro-denominated clearing, to allow for shared supervision and the potential relocation of 'systemically important' clearing activity to the EU. The current review of the ESAs may redraw the landscape of EU supervision entirely, and the future of the equivalence framework (together with the legislation that underpins it) is in the EU's gift. Any divergence between the EU and UK regimes in future may therefore arise from future adaptation by the EU, as well as by the UK.

Given the uncertain context, it is important to gain a clear picture of the UK's current regulatory regime, with a view to understanding how EU rules will be embedded via the European Union (Withdrawal) Bill, and whether any changes may be made to the status quo in the near term. Questions also remain over how the UK's supervisors will work with their EU counterparts in the future, and how the newly domesticated regime will be managed, not least with respect to the potential emergence of cross-border banking crises and the supervision of market infrastructure.

The Committee will examine how financial regulation and supervision can evolve following Brexit in order to ensure financial stability. This may involve maintaining equivalence or some other form of close relationship between the UK and EU regulatory regimes (thus preserving market access for UK-based firms). The inquiry will encompass an assessment of not only the body of regulation, but also the institutional structures that support it. The Committee will consider in particular the following areas:

- The scope for the UK to adapt its own regime to new circumstances post-Brexit and foster innovation, while still maintaining market access;
- Whether equivalence is the best means to achieve continued cooperation, and what other forms of alignment could exist;
- Differences between the UK, EU and international regimes in financial regulation and where gaps exist;
- Whether there are areas in which it could be beneficial for the UK to deviate from the EU's current framework in future;
- How any regulatory divergence, and shared supervisory concerns, can best be managed, including mechanisms for dispute resolution.

ISSUES

The Committee seeks evidence on the following questions in particular:

Current regulatory regimes

1. What is your overall assessment of the EU's financial services regime, in light of its current application to the UK? To what extent is it effective, and for whom?
2. Are current EU proposals on banking and financial services in your view positive for financial stability? How do you expect the EU's regulatory framework to evolve in the coming years?

3. What are the key differences between financial regulation as agreed at the international, EU and UK levels, and where are the gaps? How important is it to maintain a level playing field for regulation?
4. Are there any particular legal or practical challenges related to incorporating the existing body of EU financial services legislation into the UK's domestic law, for example the PRA rulebook?

Transition, equivalence and alignment

5. What would be the key priorities for a transitional arrangement, and how much continuity would you expect to see under such an arrangement?
6. In practical terms, how and when could a transitional arrangement be agreed and put in place? How long would such a transition need to last?
7. What are the benefits and drawbacks of seeking equivalence? What conditions are likely to be attached by the EU to any equivalence decisions?
8. What alternatives may exist for maintaining alignment between the UK's and EU's regimes? What options could be considered for resolving disputes or arbitrating on such matters? What would be the barriers to a more bespoke arrangement?

The future environment

9. What effect will the loss of the UK have on the development of the EU financial services framework and its capital markets?
10. Where is there scope for the UK to amend its regulatory regime? What precedents exist under current equivalence decisions for divergence to occur?
11. What challenges will expected innovations in financial markets, for instance in the FinTech sector, present in respect of regulation and supervision post-Brexit? How can these challenges be overcome? Can the UK maintain a competitive advantage while adapting to a new regime? If so, how?
12. Will leaving the EU affect the way that the UK represents itself in international fora? How can the UK continue to maintain influence when dealing with organisations such as the FSB and IOSCO in setting international standards?

Supervision

13. The Commission is currently conducting a review of the European Supervisory Agencies. What, in your view, are the key areas where reform should be pursued and what might be the impact of such reform on UK supervision?

14. How could an enhanced role for ESMA and the ECB in respect of euro-denominated clearing work? What are the options for the UK to retain euro clearing in the light of the European Commission's recent proposals?
15. How would supervisory cooperation (as envisaged for CCPs) work in practice? Are there any precedents? What are the potential risks?

You need not address all of these questions.

ANNEX: GUIDANCE FOR SUBMISSIONS

Written evidence should be submitted online using the written submission form available online at: <http://www.parliament.uk/financial-regulation-supervision-submission-form-lords>. This page also provides guidance on submitting evidence. If you have difficulty submitting evidence online, please contact the Committee staff by email at coastsmithc@parliament.uk or by telephoning 020 7219 3140.

The deadline for submitting written evidence is **Friday 29 September 2017**.

Short submissions are preferred. A submission longer than six pages should include a one-page summary. Paragraphs should be numbered. All submissions made through the written submission form will be acknowledged automatically by email.

Evidence which is accepted by the Committee may be published online at any stage; when it is so published it becomes subject to parliamentary copyright and is protected by parliamentary privilege. Submissions which have been previously published will not be accepted as evidence. Once you have received acknowledgement that the evidence has been accepted you will receive a further email, and at this point you may publicise or publish your evidence yourself. In doing so you must indicate that it was prepared for the Committee, and you should be aware that your publication or re-publication of your evidence may not be protected by parliamentary privilege.

Personal contact details will be removed from evidence before publication, but will be retained by the Committee Office and used for specific purposes relating to the Committee's work, for instance to seek additional information.

Persons who submit written evidence, and others, may be invited to give oral evidence. Oral evidence is usually given in public at Westminster and broadcast online; transcripts are also taken and published online. Persons invited to give oral evidence will be notified separately of the procedure to be followed and the topics likely to be discussed.

Substantive communications to the Committee about the inquiry should be addressed through the Clerk of the Committee, whether or not they are intended to constitute formal evidence to the Committee.

This is a public call for evidence. Please bring it to the attention of other groups and individuals who may not have received a copy direct.

You may follow the progress of the inquiry at: <http://www.parliament.uk/financial-regulation-supervision-inquiry-lords>